

IN RE: PETITION FOR ZONING VARIANCE
SW/S Weddel Avenue, 550' NW
of Benson Avenue
(1214 Weddel Avenue)
13th Election District
1st Councilmanic District
Donald Proescher, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 93-58-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Zoning Variance filed by the legal owners of the subject property, Donald and Margaret Proescher. The Petitioners request relief from Sections 1801.2.C.2 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an open projection setback of 7 feet in lieu of the required 11.25 feet and to amend the final development plan of the Resubdivision of a Portion of Whittemore Park for an existing carport in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Donald and Margaret Proescher. There were no Protestants.

Testimony indicated that the subject property, known as 1214 Weddel Avenue, consists of 7,950 sq.ft. zoned D.R. 5.5 and is improved by a single family dwelling with an attached carport, above-ground swimming pool, and shed. The Petitioners filed the instant Petition as a result of an anonymous complaint filed with the Zoning Office as to the carport. Testimony indicated that the Petitioner constructed the subject carport without benefit of a building permit and was not aware that a variance was needed. Donald Proescher testified that his neighbor on the affected side has never complained to him and had even complimented his work.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 15th day of October, 1992 that the Petition for Zoning Variance requesting relief from Sections 1801.2.C.2 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an open projection setback of 7 feet in lieu of the required 11.25 feet and to amend the final development plan of the Resubdivision of a Portion of Whittemore Park for an existing carport, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) The subject carport shall not be enclosed in any manner and shall remain open on the three exposed sides.
- 3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113, Courthouse
400 Washington Avenue
Towson, MD 21204

October 15, 1992

(410) 887-4386

Mr. & Mrs. Donald Proescher
1214 Weddel Avenue
Baltimore, Maryland 21227

RE: PETITION FOR ZONING VARIANCE
SW/S Weddel Avenue, 550' NW of Benson Avenue
(1214 Weddel Avenue)
13th Election District - 1st Councilmanic District
Donald Proescher, et ux - Petitioners
Case No. 93-58-A

Dear Mr. & Mrs. Proescher:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3351.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: People's Counsel

file

ORDER RECEIVED FOR FILING
Date 10/22/92
By [Signature]

ORDER RECEIVED FOR FILING
Date 10/22/92
By [Signature]

ORDER RECEIVED FOR FILING
Date 10/22/92
By [Signature]

- 2 -

- 3 -



Petition for Variance

93-58-A
to the Zoning Commissioner of Baltimore County
for the property located at 1214 Weddel Ave
which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Sections 1801.2.C.2 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an open projection setback of 7 feet in lieu of the required 11.25 feet and to amend the final development plan of the Resubdivision of a Portion of Whittemore Park for an existing carport, in accordance with Petitioner's Exhibit 1.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

As to be discussed at Hearing

Property is to be posted and advertised as prescribed by Zoning Regulations. I or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee
(Type or Print Name)
Signature
Address
City State Zipcode
Attorney for Petitioner
(Type or Print Name)
Signature
Address
City State Zipcode
Name
Address
City State Zipcode
Phone No.
ESTIMATED LENGTH OF HEARING
the following date
REVIEWED BY: DATE

(Use to solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.)
Legal Owner(s)
Donald Proescher
(Type or Print Name)
Donald Proescher
Signature
MARGARET PROESCHER
(Type or Print Name)
Margaret A. Proescher
Signature
1214 Weddel Ave. 247-2738
Address
Baltimore Md. 21227
City State Zipcode
Name, Address and phone number of legal owner, contract purchaser or representative to be contacted

ORDER RECEIVED FOR FILING
Date 10/22/92
By [Signature]

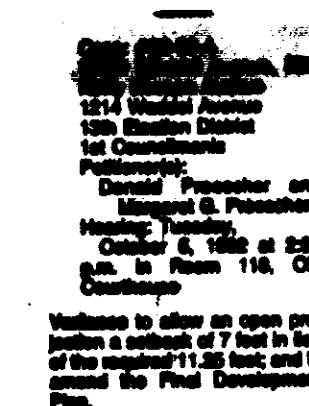
Zoning Description 93-58-A

Beginning at a point on the south west side of Weddel Avenue which is 50 ft wide at the distance of 550 ft north-westerly of the centerline of the nearest improved intersecting street Benson Ave which is 60 ft of Right of Way wide. Being Lot #57, Block , Section # in the resubdivision of a portion of Whittemore Park recorded in Baltimore County Plat Book #52, Folio #100, containing 7950 square feet. Also known as 1214 Weddel Avenue and located in the 13th Election District, 3rd Council District.

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 13th Date of Posting 9/18/92
Posted for Donald & Margaret Proescher
Location of property 1214 Weddel Ave, (1214) 550' NW of Benson Ave
Location of Signs Being roadway, on property of Baltimore County
Remarks
Posted by [Signature] Date of return 9/22/92
Number of Signs 2



CERTIFICATE OF PUBLICATION

TOWSON, MD. 9/16, 1992

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 9/16, 1992

THE JEFFERSONIAN,

S. Zake Orlean
Publisher



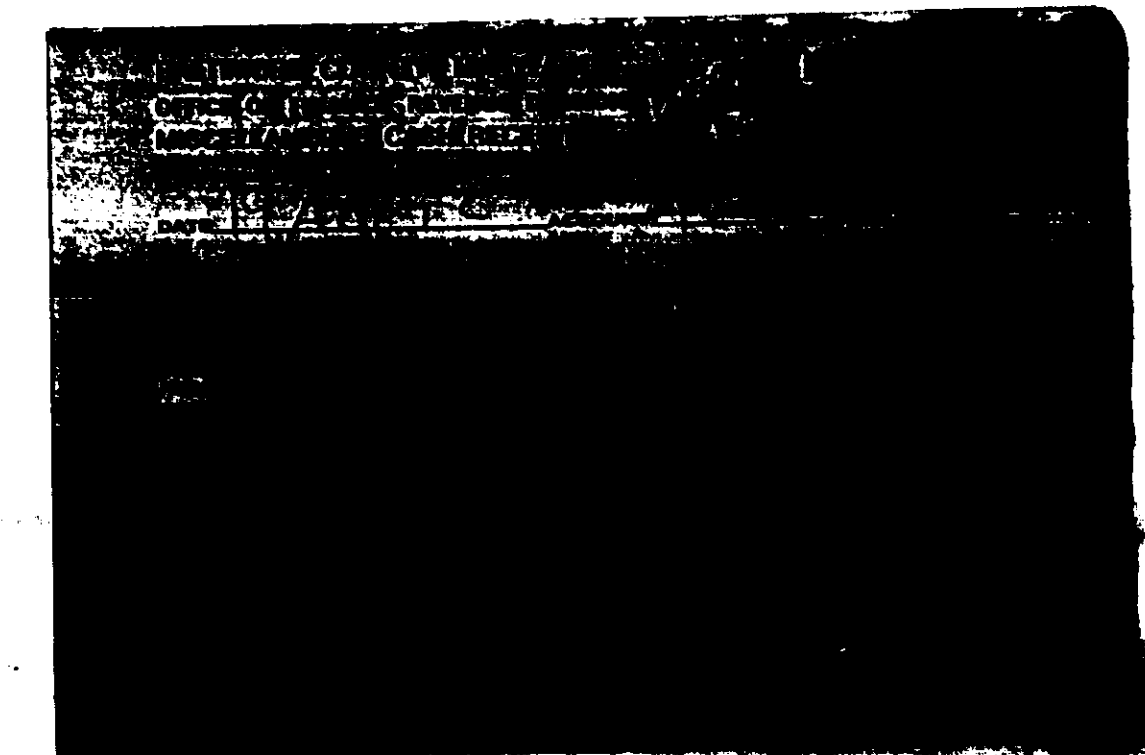
Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Date 93-58-A Account: R-001-6150
Number
paid per hand written receipt dated 8/19/92
8/28/92 H9300665
PUBLIC HEARING FEES QTY PRICE
010 -ZONING VARIANCE (IRL) 1 X \$50.00
LAST NAME OF OWNER: PROESCHER TOTAL: \$50.00

Cashier Validation

Please Make Checks Payable To: Baltimore County



79/13-72
JW

4/9/88
8

~~Development Review Committee~~ Engineering
Development Review Committee Response Form
Authorized signature _____ Date _____

09/08/92

| Project Name | File Number | Waiver Number | Zoning Issue | Meeting Date |
|--|-------------|---------------|--------------|--------------|
| Stonagate at Patapsco (Azreal Property) | | | | |
| ZON DED TE (Waiting for developer to submit plans first) | 90476 | | | 6-1-92 |
| COUNT 1 | | | | |
| James Enterprises | | | | |
| DEPRM STP TE | | 48 | W/C | 8-24-92 |
| Salvo Realty, Inc. | | | | |
| DEPRM STP TE | | 50 | W/C | |
| COUNT 2 | | | | |
| Maiden Choice Associates | | | | |
| DED DEPRM RP STP TE | | 54 | W/C | 8/31/92 |
| ✓ Lyons Mill Partnership | | | | |
| DED DEPRM RP STP TE | | 62 | N/C | |
| Steven Lewis and Mary Ann Kidwell | | | | |
| DED DEPRM RP STP TE | | 63 | W/C | |
| ReVisions, Inc. | | | | |
| DED DEPR RP STP TE | | 64 | W/C | |
| ✓ Donald And Margaret Proescher | | | | |
| DED DEPRM RP STP TE | | | N/C | |
| ✓ Franciaco and Ada Figueroa | | | | |
| DED DEPRM RP STP TE | | 66 | N/C | |
| ✓ Pamela H. and Randall W. Perkins | | | | |
| DED DEPRM RP STP TE | | 67 | N/C | |
| ✓ Johnny M. Boyles | | | | |
| DED DEPRM RP STP TE | | 68 | N/C | |

700 East Joppa Road Suite 901
Towson, MD 21204-5500

**Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204**

RE: Property Owner: DONALD PROESCHER AND MARGARET G. PROESCHER

Location: #1214 WEDDEL AVENUE

Item No.: ~~WORK~~ #12 (CAM) Zoning Agenda: AUGUST 31, 1992

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

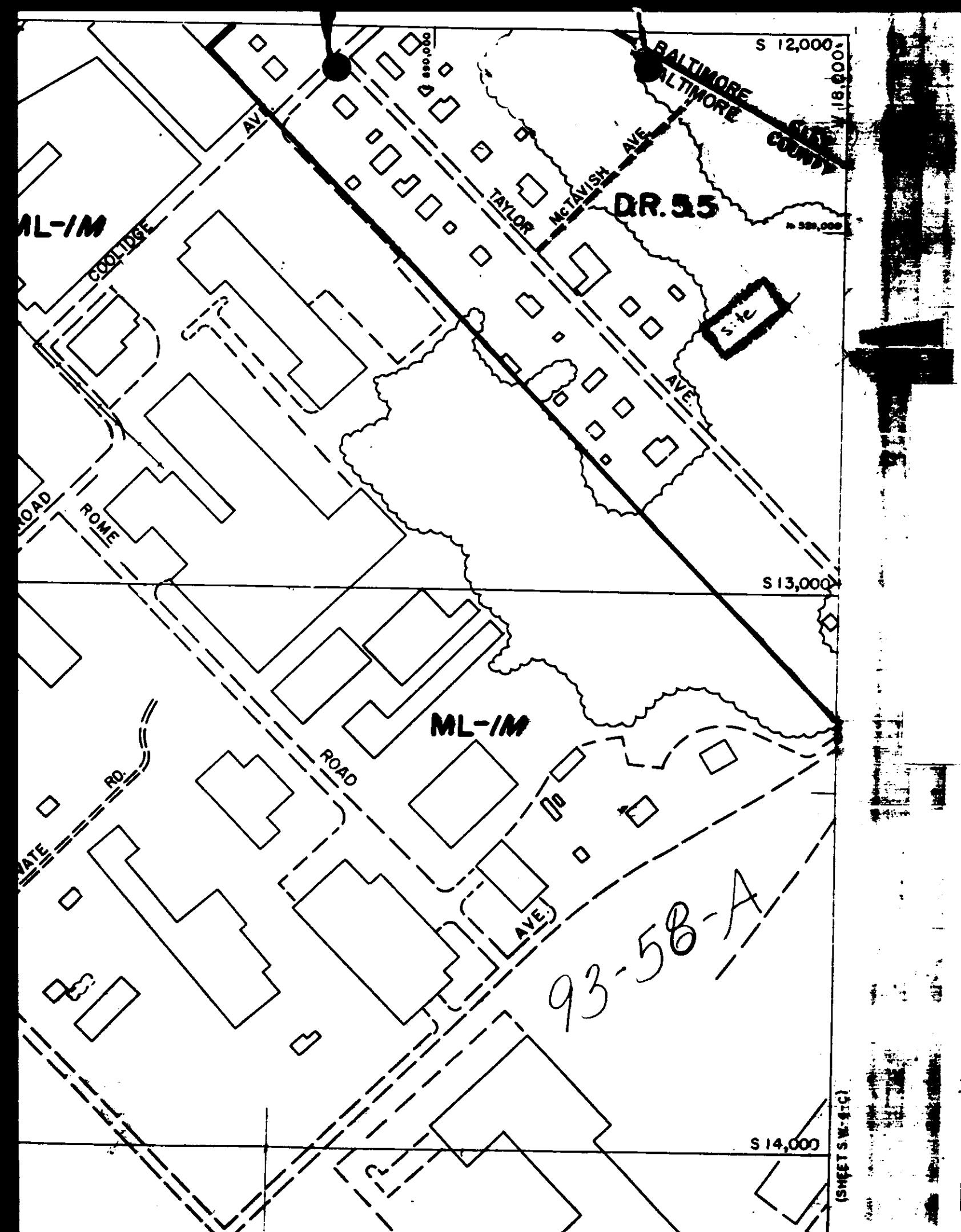
REVIEWER: Capt. Jerry Riefer Noted and Approved _____
Planning Group Fire Prevention Bureau
Special Inspection Division

JP/KEK

RECEIVED
SEP 8 1992
ZONING OFFICE

PLEASE PRINT CLEARLY PETITIONER(S) SIGN-IN SHEET

DONALD PROESCHER 1214 Weddle Ave.
MARGARET PROESCHER 1214 Weddle Ave.



Plot) company Petition for Zoning **Variance** **Special Zoning**

PROPERTY ADDRESS: 1214 Wendel Ave see pages 5 & 6 of the CHECKLIST for additional required information.

Subdivision name: Resubdivision of a Portion of Whittemore Park

plot books: 58, folio 112, lot 52, section 4

OWNER: Donald Proeschke

LOT # 57 **LOT #** 56

BACK LINE

FRANCIS

BEANSON AVE

550 NWLY

50' RW

North
date: 7-26-42
prepared by: A. Fiorino

Scale of Drawing: 1" = 30' FT

LOCATION INFORMATION

Counthamania District: 1
Election District: 13
T=200' scale map:
Zoning: DR 855
Lot size: 18 7950 square foot
sewerage

SEWER: ☒ ☐
WATER: ☒ ☐
Chesapeake Bay Critical Area: ☐ ☒
Prior Zoning Hearings: NONE KNOWN
Zoning Office USE ONLY!

73-58-A

